

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

ETHAN J. MOORE,

Plaintiff,

v.

CIVIL ACTION NO. 3:09-0156

UNITED STATES OF AMERICA and
RICARDO MARTINEZ, Warden,

Defendants.


ORDER

This action was referred to the Honorable Maurice G. Taylor, Jr., United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that Plaintiff's motion to dismiss be granted and the petition for writ of habeas corpus be dismissed, without prejudice. Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Plaintiff's motion to dismiss and **DISMISSES** the petition for writ of habeas corpus, without prejudice, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Taylor, counsel of record, and any unrepresented parties.

ENTER: July 8, 2009


ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE